WATER:

12-29-86

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giving Provo City 41 percent of the river.

In 1921, the Morse Decree, which is recognized as the definitive bible on Provo River water rights, was signed. In this decree Judge Morse allocated the water by second feet, rather than by percentages, but on close inspection, they add up to the same amounts.

There were actually several "decrees" on the river. The Chidester Decree takes the river from the mouth of Provo Canyon to Charleston (which was then located where Deer Creek Reservoir now is). Fulton Decree takes it from Charleston to about Hailstone Junction, and a fourth decree takes it to the headwaters.

Judge Morse broke down the river water into rights from Class A to Class B through J. He stated that rights B through J could be administered by the State Engineer, but Class A rights predated the State Engineer.

Provo City holds Class A rights, and Class A rights because of the Morse Decree are superior to any other rights on the river.

In the Findings of Fact filed in his second decree, Judge Morse recognized Provo City's unique water rights, stating:

"That the defendant Provo City, is a municipal corporation of the state of Utah, and said City by and with the consent of the inhabitants thereof, and by virtue of its charger power and the Statutes of the state of Utah, and Ordinances of said City, owns, controls, distributes and regulates the waters of Provo River to which its inhabitants and parties adjacent to said city that derive water from conduits flowing within and through the corporate limits of said city are entitled."

In a transcript of the court trial (Civil #2888) that produced the Morse Decree, Judge Morse is quoted as stating that "...the City not only has the right to make some provision for future (water) use, but it is the duty of the City to do that."

Further: "...your water rights, how you acquired them and whether you have them is more important than just the question of whether you have a present necessity every month in the year for the full quantity of water that you have the right to use."

• The water he granted Provo City for it uses, including 65 second feet of water in the river "for the use of the factories," total up to the 41 percent he granted in his first decree in 1902.

• Some entities challenging Provo's right to the 65 second feet of water have claimed that the 65 second feet of water was intended to be a "power right" and power rights are non-consumptive. However, while the factories in 1921 did use some water for generation of power, they also used water from the mill race for other purposes.

nile court judge and someone from the court administrator's office."

Anderson emphasized that his opinion and vote on the courthouse remodeling has always been the same.

"I've been on the record for two years in favor of this project," said Anderson today. "As long as somebody else paid the price, I didn't care if they spent $10 million to remodel it."

Anderson said he never saw a necessity to bring out his application for sanity commissioner. "I've certainly never kept it a secret."

The applicants are screened and ultimately recommended for hire by the 4th District Court judiciary.

Anderson voted Wednesday, in a 2-1 action, to approve a controversial $2.865 million courthouse remodeling project.

While Commissioner Brent Morris has consistently argued that the project is being rushed through to please the judiciary, Anderson and fellow Commissioner Malcolm Beck have pushed for prompt action.

Morris contends that since the project has become inflated in cost well past the original estimate, the public must be allowed to participate in the county complex project was undertaken.

When the item came up for discussion on the working agenda Wednesday, Anderson said he wanted a chance to vote on the project before he left office. He placed the motion to approve the costs, plans and specifications for the remodeling and voted with Beck for approval over Morris' nay vote.

Anderson said he does not see the tie between his new job application and his voting as a conflict of interest.

The Utah State Code Annotated states that "no elected or appointed officer shall use or attempt to use his official position to secure special privileges for himself or others."

Deputy Attorney General Paul Warner said Anderson has the right to vote the way he feels and until there's an indication of a "deal cut", he doesn't see a legal problem.

"Certainly the judges will be aware of the circumstances, but I've got confidence in the 4th District judicial bench."

Warner said he believes those who will ultimately select the sanity commissioner or any such quasi-judicial offi-

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Today

Threat of snow in the air

Friday, cloudy with a slight chance of snow. Warmer with highs in the low 30s. Outlook for New Year's weekend: snow Saturday, decreasing Sunday. Highs 25 to 35. See page 17.